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UNCLAS SECTION 01 OF 03 TAIPEI 000115

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STATE PASS TO AIT/W

STATE ALSO FOR EAP/RSP/TC

JUSTICE FOR OIA AND AFMLS

TREASURY FOR FINCEN

E.O. 12958: N/A

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SUBJECT: TAIWAN: 2004-2005 INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT (INCSR) PART II, MONEY LAUNDERING AND FINANCIAL CRIMES

REF: 2004 STATE 254401

11. AIT 2004-2005 PART II INCSR Responses follow:

12. Taiwan is not considered an important regional or offshore financial center. Money laundering in Taiwan is not generally related to narcotics trafficking. Most illegal or unregulated financial activities are done to avoid taxes or conceal financial flows to and from third countries. There is no indication that local drug trafficking organizations or terrorist groups control money-laundering proceeds.

13. In 2004 Taiwan experienced an increase in financial crimes involving graft by some company executives in high-tech industries. There is no indication that contraband smuggling generates funds laundered through the banking system. There has been no indication of Taiwan policy, official encouragement, or facilitation of laundering proceeds from illegal drug transactions or terrorist financing. It is unlikely that Taiwan's legal financial institutions would engage in currency transactions involving international narcotics trafficking proceeds.

Money Laundering/Terrorist Financing Laws and Regulations

14. Money laundering is a criminal offense under Taiwan's Money Laundering Prevention Law (MLPL). MLPL covers counterfeit securities, counterfeit credit cards, fraud and usury, underground banking, bankruptcy fraud, embezzlement from banking institutions, corrupt government contracting and procurement, insider trading, and manipulation of securities trading, trafficking of children, abduction, weapons manufacture and sale, smuggling, and drug trafficking. Banks and other financial institutions are required to record and report the identity of customers engaging in transactions of NT\$ 1 million (about US\$30 thousand) or more. Financial agencies are required to keep records of all significant transactions for five years.

15. According to Taiwan's Financial Supervisory Commission (FSC), financial institutions are required to report all cash transactions of at least NT\$ 1 million and any cases where there are indications of money laundering to the Money Laundering Prevention Center (MLPC). Such reports are confidential and protected by specific provisions in the

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MLPL. MLPC officials are authorized to require domestic and offshore financial entities to disclose client and ownership information. Individual bankers can be fined NT\$ 200,000-NT\$ 1 million (about US\$ 6,000-30,000) for not following the MLPL.

16. The money laundering controls also apply to trust and investment companies, credit cooperative associations, credit departments of farmers' and fishermen's associations, postal savings systems, insurance companies, securities firms, and consulting companies, futures brokers, jewelry stores, casinos, automobile dealers, aircraft dealers, merchant ship dealers and real estate brokers.

Crime Statistics

17. From January-September 2004 (the most recent figures available), Taiwan investigated 505 cases of possible money laundering. Among these cases, 442 were economic crimes, seven involved government corruption, and seven were narcotics-related crimes. Total money laundering January-September amounted to NT\$ 1,244 million (about US\$ 38 million). Of the 505 cases investigated, 287 cases involved money laundering via bank transactions, 213 cases via postal remittances and savings banks, and one case via a credit union. Taiwan's financial institutes and banker

associations, political parties, and other affected organization have not expressed any objection to the money laundering prevention laws.

¶ 18. Taiwan's draft "Counter-Terrorism Action Law" (CTAL), which designates terrorism financing as a major crime is still pending legislative approval. Under CTAL provisions, the National Police Administration, the Ministry of Justice Investigation Bureau (MJIB), and the Coast Guard are able to seize the suspected terrorist assets even before criminal charges are made. In emergency situations, law enforcement agencies would be able to freeze assets for three days without a court order. Assets and income obtained from committing terrorist crimes could be confiscated permanently unless such assets and income can be identified as belonging to the victims of the crimes. Taiwan officials have the authority to freeze and/or seize terrorist-related financial assets.

¶ 19. The Bureau of Monetary Affairs (BOMA) of the FSC has circulated lists of individuals and entities identified by the UN 1267 Sanction Committee and provided by the U.S. to domestic and foreign financial institutions in Taiwan. Taiwan and the U.S. have established procedures to exchange records concerning suspicious terrorist financial activities. After receiving financial terrorist lists from AIT, BOMA conveys the list to relevant financial institutions.

¶ 10. Domestic and international financial information including terrorist and money laundering lists are available on the MLPL internet website. Banks are required to file a report on cash remittances of at least NT\$ 1 million or if the remitter/remittee is on a terrorist list. Foreign labor brokers are authorized to remit income earned by foreign workers via banks to their home countries. These remittances are not regulated or reported, and money-laundering regulations are not imposed on these foreign labor brokers. At present, there are no plans to probe charitable or non-profit entities to see if they serve as conduits for financing of terrorism. These entities must register with official agencies.

¶ 11. Taiwan is not a party to the 1999 International Convention for the Suppression of the Financing of Terrorism, but complies with its provisions.

Offshore Financial Centers

¶ 12. All foreign financial institutions and offshore banking units follow the same regulations as domestic financial entities. All offshore banks, international business companies, and shell companies need to comply with the disclosure regulations from Taiwan's Central Bank of China (CBC), BOMA, and MLPC. These supervisory agencies will conduct background checks on applicants for banking and business licenses. Offshore casinos or internet gambling sites are illegal.

Free-Trade-Zones

¶ 13. Taiwan's only free trade zone began operation in Keelung on October 1, 2004. Entities wanting to operate in the free trade zones must submit applications to the port authorities. Entities can conduct simple processing of commodities in the zone and re-export them without inspection by customs. There is no indication that the zone is used in money-laundering schemes or by financers of terrorism. Keelung port authority has a panel composed of members from various enforcement agencies to conduct checks of commodities, transportation, and accounting. According to Taiwan's Banking Law and Securities Trading Law, in order for financial institutions to conduct foreign currency operations Taiwan's Central Bank must first approve the institution to conduct foreign-currency operations. The financial institutions must then submit an application to port authorities to establish an offshore banking unit in the free trade zone.

International Cooperation

¶ 14. Taiwan is not a member of the United Nations and therefore cannot be a party to the UN International Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances or other UN agreements and conventions. However, Taiwan abides by the provisions of those conventions. Taiwan is a member of the Egmont Group and the Asia/Pacific Group on Money Laundering (APG) adheres to regulations/recommendations from other international groups including the Financial Action Task Force on Money Laundering (FATF). Where necessary, Taiwan has amended its regulations to meet international standards.

¶ 15. The Taipei Economic and Cultural Representative Office

(TECRO) and the American Institute in Taiwan (AIT) signed a Mutual Legal Assistance Agreement (MLAA) in March 2002. This agreement remains the primary avenue of law enforcement cooperation in regards to investigations of narcotics trafficking, counter-terrorism issue, including terrorist financing, and other transnational crimes.

Asset Forfeiture and Seizure Legislation

¶16. Taiwan has established drug-related asset seizure and forfeiture regulations, which state that according to treaties or agreements Taiwan's Ministry of Justice shall share seized assets with foreign official agencies, private institutions or international parties who provide Taiwan with assistance in investigations/enforcements. Assets of drug traffickers, including instruments of crime and intangible property, can be seized along with legitimate businesses used to launder money. The injured parties can be compensated with seized assets. The Ministry of Justice distributes other seized assets to the prosecutor's office, police, or other anti-money laundering agencies. The law does not allow for civil forfeiture.

¶17. In January-September 2004, total seized assets reached NT\$ 20 million (about US\$ 660,000). To prevent money laundering and other serious crimes, Taiwan works with the financial intelligence units of other countries on asset tracing, freezing, and seizure. Taiwan's banking community and public have been supportive of Taiwan authorities' enforcement efforts.

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